

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



June 18, 1991

ALL COUNTY LETTER NO. 91-50

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: IMPLEMENTATION OF COURT ORDER IN JOHNSON VS CARLSON -
LUMP SUM INCOME IN AFDC

REFERENCE: MPP 44-207.432(a)

The purpose of this letter is to inform County Welfare Departments (CWDs) of a court order signed April 24, 1991 in the Johnson case. The court order eliminates the "anticipated lump sum rule" contained in MPP 44-207.432(a).

The letter also addresses certain aspects of informing and application processing regarding treatment of lump sum income. These issues are addressed in ATTACHMENT 1.

Court Order

There are no provisions for retroactive benefits under the Johnson court order. A copy of the order is attached. Under the terms of the order:

- o The Department of Social Services (DSS) and CWDs must cease applying the "anticipated lump sum" rule.

This must be done as soon as administratively possible after the date the CWD receives this letter, but not later than 30 calendar days after receipt.

- o DSS must repeal regulations regarding the "anticipated lump sum" rule. This process is underway.
- o Under the court order, the "anticipated lump sum" rule may not be used at all. This includes review of past case actions, establishment of overpayments and review of current or future circumstances. Should a Filing Unit in a period of ineligibility (POI) resulting from application of the "anticipated lump sum" rule apply for AFDC, the members of the Filing Unit must not be considered ineligible based on the POI.

EXAMPLE: A CWD has ceased applying the "anticipated lump sum" rule as of July 1. The CWD has a situation where it appears that the rule should have been applied in a past month but was not, an open case where the recipient has reported enough information to apply the rule, and a restoration request by a Filing Unit currently in a POI due to application of the rule.

The CWD cannot apply the rule in any of these situations. The CWD must process the restoration request without regard to the POI.

If you have questions or need further information regarding this letter, please contact Jim Lucas of the Welfare Policy Implementation Bureau at (916) 324-2725 or ATSS 454-2725.



ROBERT A. HOREL
Deputy Director

Attachments

cc: CWDA

DISCUSSION OF LUMP SUM POLICYAnticipated Lump Sum Income

Under MPP 44-207.432(a), CWDs were required to evaluate anticipated receipt of lump sum income for a possible POI. Usually, this meant that the case would be discontinued before the lump sum was received and the persons included in the Assistance Unit (AU) would not be AFDC recipients when the lump sum was received.

Under the court order, CWDs may no longer "anticipate" and apply a POI to persons who will not be AFDC applicants or recipients when the lump sum is received. Instead, the anticipated income must be used to determine prospective income eligibility for the month the lump sum will be received. A POI is not applied.

EXAMPLE: An AFDC AU reports to the CWD that a lump sum is anticipated to be received in the following month. The CWD identifies the income as lump sum. The CWD will be able to act so as to preclude any aid being paid to the AU for the month the lump sum is anticipated to be received (i.e., the CWD can give timely notice of action or the AU has waived the right to timely notice).

- o Under the "anticipated lump sum" rule, if the CWD had enough information to do the computation, the CWD would have established a POI beginning with the month of anticipated lump sum receipt.

Usually, this would have resulted in a discontinuance action effective at the end of the month before the month of anticipated receipt of lump sum.

- o Under the court order, the CWD would use the lump sum together with other income to evaluate income eligibility for the month of receipt.

Usually, this would mean that the CWD would discontinue the case for projected gross income ineligibility. No POI would be established.

Current Provisions Regarding Lump Sum Income

Other provisions regarding lump sum income have not changed. The CWD must review for a POI when:

- o Lump sum income is received by a Filing Unit or an AU; and
- o The total of the lump sum plus other net nonexempt income exceeds the Minimum Basic Standard of Adequate Care/Special Needs (MBSAC/SN) amount; and

- o The Filing Unit or AU has been informed of the lump sum rules.

Requesting Discontinuance or Withdrawing Application to Avoid Lump Sum Rules

Under the "anticipated lump sum", an AU could not request discontinuance to avoid a POI. If an AU reported an anticipated lump sum and provided information sufficient to do the computation, the CWD was required to apply the lump sum rules. Similarly, an applicant could not be allowed to withdraw an application to avoid imposition of the lump sum rules.

Since the court order invalidates the "anticipated lump sum" rule, an AU may request discontinuance to avoid imposition of the lump sum rules. Accordingly, an applicant may withdraw an application to avoid imposition of the lump sum rules. This represents a change.

EXAMPLE: An AFDC AU reports to the CWD that a lump sum is anticipated to be received in the following month. The CWD identifies the income as lump sum.

The CWD will be able to act so as to preclude any aid being paid to the AU for the month the lump sum is anticipated to be received (i.e., the CWD can give timely notice of action or the AU has waived the right to timely notice). The AU has requested discontinuance.

- o Under the "anticipated lump sum" rule, if the CWD had enough information to do the computation, the AU could not request discontinuance to avoid a POI.
- o Under the court order, the CWD would use the lump sum to evaluate income eligibility for the month of receipt.

If projected income, including the lump sum, exceeded the gross or net income standard, the CWD would discontinue for projected income ineligibility. No POI would be established. However, the AU would have the option to request discontinuance if it wished.

EXAMPLE: A Filing Unit applies for AFDC and is informed of the lump sum rules. After informing, but during the application period, the Filing Unit receives lump sum income. The Filing Unit requests that the application be withdrawn to avoid imposition of the lump sum rules.

- o Under the "anticipated lump sum" rule, the Filing Unit could not withdraw their application to avoid imposition of the lump sum rules. The CWD was required to evaluate for a POI.

- o Under the court order, the Filing Unit can withdraw the application. If the application is withdrawn, the CWD is not required to take any action regarding the lump sum income.

Lump Sum Informing

In order to apply the lump sum rules, the applicant or recipient must be informed. The informing requirements for lump sum were established under the Rutan court order.

Lump sum informing occurs when the applicant in a Filing Unit or a caretaker relative or other payee for an AU signs the SAWS 2A to indicate that informing has been completed. This informing is done at application, reapplication, restoration and redetermination.

The CWD must apply the lump sum rules to:

- o Any portion of lump sum income received by a Filing Unit or AU prior to lump sum informing that is retained at the time of informing; and
- o Any lump sum income received by a Filing Unit or AU after lump sum informing.

EXAMPLE: A Filing Unit applies for AFDC on August 1. The applicant is informed of the lump sum rules on August 15. At that time, the Filing Unit reports receipt of \$15,000 in lump sum income on August 5. Most of the money has been disposed of, but \$2000 still remains.

The CWD would treat \$13,000 as "ordinary" (non-lump sum) income. This is the portion of the lump sum received and disposed of before informing.

The CWD would treat \$2000 as lump sum. This is the portion of the lump sum that was retained at the time of informing.

Lump sum informing lasts for a specified period of time, depending on whether the Filing Unit has previously been on AFDC.

- o An Assistance Unit that remains continuously aided since informing is considered to remain informed as long as the caretaker relative that was originally informed remains in the home.

EXAMPLES: 1) An Assistance Unit of a parent and a child are aided continuously since informing. The parent is informed. Another parent joins the home. Since the informed parent remains in the home, the AU is considered to be informed.

- 2) An Assistance Unit of a parent and a child are aided continuously since informing. The parent is informed. The informed parent moves out of the home and the other parent moves in. The other parent becomes the caretaker relative and aid continues. Since the informed parent left the home, the AU is not considered to be informed until the new caretaker is informed.

- o A Filing Unit requesting restoration is considered to be informed of the lump sum rules if at least one of the adult caretaker relatives was informed in the month of discontinuance or any of the twelve calendar months preceding discontinuance.

EXAMPLE: A Filing Unit requests restoration of AFDC in July 1991. The AU was discontinued effective July 31, 1990. The last time that at least one adult caretaker relative was informed of lump sum rules was during redetermination, in July of 1989.

The Filing Unit is considered to be currently informed of lump sum rules (the twelfth month preceding the calendar month of discontinuance is July of 1989).

- o A Filing Unit making an application or reapplication for AFDC is considered to be informed of lump sum rules if at least one of the adult caretaker relatives was informed in the month of application or any of the twelve calendar months preceding application.

EXAMPLE: A Filing Unit applies for AFDC in July 1991. The last time at least one adult caretaker relative was informed of lump sum rules during an application, in June of 1990.

The Filing Unit is not considered to be informed of lump sum rules (the twelfth month preceding the calendar month of the last informing is July of 1990).

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12
13 SUPERIOR COURT OF CALIFORNIA, CONTRA COSTA COUNTY

14 NO. C91 - 01171

15 MARY JOHNSON,

16 Plaintiff,

17 NOTICE OF ENTRY OF
18 JUDGMENT

19 vs.

20 LONNIE CARLSON, as Acting Director
21 of the California Department of
22 Social Services, and THOMAS HAYES
23 as Director of the California
24 Department of Finance

25 Defendants.

26 To each party and attorney of record:

27 PLEASE TAKE NOTICE that the judgment in this action was
28 entered on April 29, 1991. A true copy is attached.

Dated: April 29, 1991

Ralph Murphy
Ralph Murphy
Contra Costa Legal Services
Foundation

Attorneys For Plaintiff

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FILED

APR 24 1991

S.L. WEIR, County Clerk
CONTRA COSTA COUNTY
By KATHI MARTIN Deputy

11
12 SUPERIOR COURT OF CALIFORNIA, CONTRA COSTA COUNTY

13 MARY JOHNSON,

14 Plaintiff,

NO. C91 - 01171

15 vs.

JUDGMENT PURSUANT TO
STIPULATION

16 LONNIE CARLSON, as Acting Director
17 of the California Department of
18 Social Services, and THOMAS HAYES
19 as Director of the California
20 Department of Finance

21 Defendants.

22 The plaintiff filed this action for declaratory and
23 injunctive relief and a writ of mandate. The parties have
24 agreed to settle this action pursuant to a stipulation filed
25 with the court. The court having read the stipulation and good
26 cause appearing, it is therefore

27 ORDERED AND ADJUDGED THAT:

28 1. The Defendants, their agents and their successors in
interest are enjoined from enforcing EAS 44-207.432(a) unless or
until permitted by state or federal law.

2. Within 45 days of the entry of this judgment the

1 Defendant Carlson, or his successor, shall issue an All County
2 Letter directing the county social services departments to
3 immediately cease implementing the anticipated lump sum income
4 rule as found in EAS 44-207.432(a).

5 3. The Defendants shall immediately take the actions
6 necessary to have EAS 44-207.432(a) repealed.

7 4. Nothing contained herein shall constitute nor be
8 construed as an acknowledgment, admission or finding of any
9 liability and the filing of this judgment shall not constitute
10 any finding or adjudication upon the merits of the case.

11 5. The plaintiff is awarded her costs and reasonable
12 attorneys fees in an amount to be determined by motion in the
13 event that the parties cannot agree.

14 Dated: 4-24-91

ELLEN S. JAMES

Judge of the Superior Court